OFFICE OF CHIEF PUBLIC DEFENDER

30 Trinity Street, 4th floor

Hartford, CT 06106

(860) 509-6405

SUMMARIES OF PUBLIC ACTS AND CERTAIN SECTIONS OF PUBLIC ACTS

EFFECTIVE ON OR BEFORE JULY 1, 2011

The following is a summary of Public Acts and <u>ONLY THOSE SECTIONS</u> of Public Acts which are <u>effective on or before July 1, 2011.</u> A number of public acts do not become effective until October 1, 2011 or later. Therefore, the bills in their entirety are not summarized here. Only those sections effective upon passage or July 1, 2011. **All sections of these bills are effective July 1, 2011 unless otherwise noted.**

A full legislative summary of all Public Acts passed during the 2011 regular session, June Special Session and June Veto Session will be available during the summer.

Thank you to George Coppolo and Chris Rapillo for their contribution to this Summary. Contact Deborah Del Prete Sullivan at (860) 509-6405 with questions.

- **Public Act No. 11-6** **An Act Concerning The Budget For The Biennium Ending June 30, 2013 And Other Provisions Relating To Revenue**

Section 50 details certain funds that will be transferred from one agency to another including $500,000 from the Probate Court Administration Fund to Court Support Services Division for a "male youth leadership pilot program to provide services in targeted communities to high-risk males with low academic achievement". **(Effective Upon Passage)**

Section 74 requires DCF and the Judicial Department to enter into an agreement regarding the transfer from DCF to Judicial of the parole functions for children for fiscal years 2011-12 and 2012-13.

(Effective Upon Passage)

- **Public Act No. 11-9** **An Act Concerning the Membership of the DNA Data Bank Oversight Panel**

The act amends C.G.S. §54-102m and adds the Chief Public Defender or her designee to the DNA Data Bank Oversight Panel. The Panel is currently composed of the following members: Chief State's Attorney, Attorney General, Commissioner of Public Safety, Commissioner of Correction and Court Support Services Division Executive Director.

(Effective Upon Passage)

- **Public Act No. 11-12** **An Act Establishing a Task Force to Study Grandparents' Visitation Rights**

(Effective Upon Passage)

This was passed in lieu of another bill that would have amended General Statutes §46b-59 in an effort to counteract the holdings of the United States and Connecticut Supreme Courts in *Troxell* v. *Granville and Roth* v. *Weston,* which, on constitutional grounds, severely restrict grandparents' standing to seek court-ordered visitation with a grandchild in the custody of a fit parent. It may have the potential to affect juveniles, since the Commissioner of DCF or her designee is designated to be a member of this Task Force.

- **Public Act No. 11-39** **An Act Concerning Disclosure of Information to a Parent or Guardian of a Youthful Offender in the Custody of the Department of Correction**

The act amends C.G.S. §54-76l to permit disclosure of information pertaining to a youth in DOC custody to the parents or guardian of such youth.

(Effective upon passage)

- **Public Act No. 11-44** **An Act Concerning The Bureau Of Rehabilitative Services And Implementation Of Provisions Of The Budget Concerning Human Services And Public Health.**

Section 117 Residential Facility For Former Prisoners And DMHAS Clients

The section permits the Commissioners of the Department of Correction (DOC), Department of Social Services (DSS), and the Department of Mental Health and

Addiction Services (DMHAS) to establish or contract to establish a chronic or convalescent home on state-owned or private property for persons who:

1. require nursing home-level services and are transitioning from prison into the community; or,

2. are DMHAS clients.

(Effective July 1, 2011)

- **Public Act No. 11-48 An Act Implementing Provisions Of The Budget Concerning General Government**

Section 57 Implementation Plan For Installation And Use Of Interlock Devices

Section 57 requires that by February 1, 2012, the Department of Motor Vehicles and the Court Support Services Division of the Judicial Branch must jointly develop and submit to the Judiciary and Transportation Committees an implementation plan for requiring the installation and use of ignition interlock devices beginning January 1, 2014, for all persons who commit a violation of section 14-227a of the general statutes.

(Effective Upon Passage)

- **Public Act No. 11-51 An Act Implementing the Provisions of the Budget Concerning the Judicial Branch, Child Protection, Criminal Justice, Weigh Stations and Certain State Agency Consolidations**

Sections 1 - 20 – Child Protection

Sections 1 through 20 transfer all of the duties and obligations of the Commission of Child Protection to the Division of Public Defender Services effective July 1, 2011. The act makes numerous changes to the enabling statutes of the Division to allow for the representation of children and parents or guardians in child protection and family relations matters, indigent respondents in paternity proceedings and contempt proceedings, legal services and guardians ad litem to children, youths and indigent legal parties in proceedings before the superior court for juvenile matters. Certain employees were transferred over to the Division as part of the consolidation. The Director of Juvenile Delinquency and Child Protection Matters and the Director of the Assigned Counsel Unit (formerly the Special Public Defender Unit) will coordinate the appointment of counsel in those cases in which assigned counsel is warranted.

Throughout the statutes the title,"Special Assistant Public Defender", is replaced by "Assigned Counsel" including within the indemnification and immunity statutes.

Section 12 – Privileged Communications

This new legislation mandates that oral and written confidential communications between the employees of the Division of Public Defender Services, Assigned Counsel and their clients in furtherance of the rendition of legal advice is privileged and not disclosable in any proceeding unless the client provides informed consent.

Section 16 – No Automatic Counsel For Indigent Relative Interveners

This section adds a new section (d)(5) to C.G.S. §46b-129(d)(1)(C) and prohibits automatic eligibility for Assigned Counsel to indigent relative interveners. However, such persons can have a court appointed lawyer in interests of justice cases pursuant to C.G.S. §46b-136.

Section 17 – GALs

This section amends C.G.S. §46b-129a to allow for the appointment in a §46b-129 proceeding of any attorney who already is serving as an attorney or guardian ad litem for a child in an ongoing probate or family matter provided such attorney is knowledgeable about neglect proceedings and the court notifies the Chief Public Defender of the juvenile court appointment.

Attorneys for children can no longer presumptively act in the dual capacity as attorney and GAL for every child. Section 17 allows the court or the child's attorney to determine if a child cannot adequately protect his or her best interests. If the court or the attorney determines that adhering to the child's legal wishes could lead to substantial physical, financial or other harm, the child's attorney may request, and the court may order, that a separate GAL be assigned. Either an attorney or a volunteer may be appointed as GAL by the court and is subject to cross-examination

DPDS has been given to authority to assess costs to parents or legal guardians who are able to pay for court appointed counsel. If the Court appoints Assigned Counsel in a delinquency case for a family who is not indigent, the family can be charged a "state rate" for the cost of providing the child with an attorney.

Section 20 – Chief Public Defender Report required re: Consolidation

This section requires the Chief Public Defender to submit a report no later than January 2012 to the legislature concerning the status of the transfer of the Commission on Child Protection responsibilities to her office.

Section 21 - Intensive Pretrial Supervision Services

(Effective from passage)

This is new legislation which requires probation officers to provide "intensive pretrial supervision services" when the court orders it. Alternative Sentencing plans must be completed by probation officers when the court orders such for any person who has pled guilty pursuant to a plea agreement which carries a term of imprisonment of 2 years of less.

This section also permits probation officers to evaluate persons and develop a community release plan serving a term of imprisonment of 2 years or less once the person has served 90 days and been compliant with the rules of DOC. If a community release plan is developed, the probation officer is required to apply for a sentence modification hearing pursuant to the statutes.

Sections 22 - 26 – Risk Reduction Credits

This is new legislation which permits discretion to the Commissioner of the Department of Correction to award "risk reduction credits" in an amount not to exceed 5 days a month for certain conduct back to April 1, 2006. Inmates can now earn "risk reduction credits" if they are compliant with their accountability plan, participate in certain programs and activities that are eligible for such and for "good conduct and obedience" to the DOC rules.

Credit cannot be earned to reduce a mandatory minimum sentence and can only be earned while incarcerated for the specific sentence.

Persons sentenced to incarceration for any of the following are prohibited from earning "risk reduction credits":

C.G.S. §53a-54a Murder.

C.G.S. §53a-54b Capital felony.

C.G.S. §53a-54c Felony murder.

C.G.S. §53a-54d Arson murder.

C.G.S. §53a-70a Aggravated sexual assault in the first degree: Class B or A felony.

C.G.S. §53a-100aa Home invasion: Class A felony .

Sections 26 and 27 – House Arrest

This section permits the Commission of Correction to release a person, sentenced to incarceration for violating subsection (g) of C.G.S. §14-227a, §14-215, subsection (c) of C.G.S. §21-279 or §21a-267, to house arrest. GPS monitoring may also be made a condition as well as continuous monitoring for alcohol consumption.

Sections 28 and 29 – Obligation to Provide General and Special Education

This is new legislation which requires the local Board of Education to be responsible for providing general and special education for juveniles in that jurisdiction's detention facilities. The act amends C.G.S. §10-253 to codify current State Department of Education practices regarding the provision of education services in juvenile detention centers and community residential centers (a/k/a ADPs) run by the Judicial Branch. The local or regional board of education for the district in which a juvenile detainee is normally enrolled, or should be enrolled, is responsible for providing general and special education to children detained in such a facility. The services can be provided directly or through contract with public or private educational service providers. Tuition may be charged to the local or regional board of education where the child would otherwise be attending school if not in detention, notwithstanding any suspension, expulsion or previous withdrawal from school enrollment.

The Judicial Branch will be notifying the local school in writing within one business day of any child's admission to detention. Prior to the child's discharge, an assessment of school work completed by the child shall be conducted by the local or regional board of education providing the education in the detention center to determine an assignment of academic credit for work completed. The child's home school shall accept the transfer of credit assigned by the board where the detention center is located.

Section 30 – Juvenile Access Pilot Program Advisory Board

This section amends C.G.S. §46b-122 and adopts language recommended by the Juvenile Access Pilot Program Advisory Board in regard to opening juvenile courts to the public. This recommendation was contained in its final report, which was formulated after an examination of the operations and results of the Middletown Regional Child Protection Session pilot open court. The new subsection (c) allows a

juvenile judge in a child protection case to permit any person whom the court finds has a legitimate interest in the hearing or the work of the court to attend such hearing. Such a person includes a party, relative of the child, service providers or a representative of any agency, entity or association, including the news media.

The judge may prohibit any person or representative whom he or she allows in the courtroom from disclosing any information that would identify the child, the custodian or caretaker of the child or members of the child's family involved in the hearing. Delinquency and FWSN cases, and juvenile records, are not affected by this change. General Statutes §46b-122(b) continues to control access regarding who attends court in delinquency and other non-child protection matters.

The pilot at the Middletown CPS is now officially terminated, and consequently, the standing order and rule promulgated in order to create no longer have any force or effect.

Section 34 Juvenile Jurisdictional Policy and Operations Oversight Council

(Effective Upon Passage)

This section rejuvenates this Council which monitors and assists in the implementation of the Raise the Age law and reports to the general assembly.

Section 35 – Unified Community Corrections Agency Review

(Effective Upon Passage)

This section requires a report from the Commissioners of DOC and DCF, OPM, and the JJPOCC on the feasibility of establishing a unified community corrections agency that would serve adult and juvenile offenders in community-based programs. Although an attempt to transfer all DCF juvenile justice programming other than the training school, including juvenile parole, was unsuccessful during this session, this portion was successful.

- **Public Act No. 11-71 An Act Concerning the Penalty for Certain Nonviolent Drug Offenses**

(All Sections Effective July 1, 2011)

Section 1 – Possession of less than ½ ounce marijuana = infraction

This is new legislation effective July 1, 2011 which reduces from an A Misdemeanor the possession of less than one-half ounce of marijuana to an infraction. Under the new law,

a person who possesses less than one-half of an ounce of marijuana can be fined $150.00 for a first offense and not less than $200.00 or more than $500.00 for a subsequent offense.

Section 2 amends subsection (c) of C.G.S. §21a-279 to reflect the new status of possession of less than one-half ounce of marijuana. The legislation does not change the A misdemeanor classification or the penalty for possession of one-half ounce or more but less than 4 ounces of marijuana.

Section 3 amends subsection (a) and (b) of C.G.S. §21a-267 and eliminates from the offense of possession of paraphernalia and possession with intent to deliver, paraphernalia which is used for less than one half ounce of marijuana.

The act adds a new subsection (d) in Section 3which creates an infraction for anyone who uses or delivers drug paraphernalia for less than one-half ounce of marijuana.

As a result, anyone who possesses less than ½ ounce of marijuana within 1500 feet of a school **is not** subject to the enhanced penalty pursuant to subsection (c) of C.G.S. §21a-267.

Section 4 amends C.G.S. §14-111e to provide for the suspension of a motor vehicle license for 60 days of any person under the age of 21 years who violates Sections 1, 2 and 3 of this act (possession of marijuana under ½ ounce or possession of paraphernalia used for less than one-half ounce of marijuana).

For persons under 21 who do not yet have a motor vehicle license, they will not be issued a new license until 150 days has passed since the date they could have obtained

The act does not include the new infraction or violation in Section 46b-124(k), which permits the juvenile clerk to disclose certain convictions to the Department of Motor Vehicles. Therefore, it is unclear whether this is applicable to delinquents convicted of the new minor marijuana violation or infraction.

Section 5 amends subsection (g) and (h) of C.G.S. §51-164n to make clear that the standard of proof to be applied in any trial for possession of less than one-half ounce of marijuana or possession of delivery of paraphernalia for use of same is by a **preponderance of the evidence.**

This burden of proof, however, may not apply to a trial in a delinquency case because the legislature only expressly refers to criminal proceedings and procedure in

this new section. See *In re Jan Carlos D.*, 297 Conn. 16 (2010) which discusses when a criminal law may apply to a delinquent child.

Section 6 is technical and amends subsection (b) of C.G.S. §51-164n to include a violation of Section 1 of this act with those violations listed.

Sections 7 through 10 – New Delinquent Acts

These sections amend subsection (5) and (1) of C.G.S. §46b-120 and subsection (5) of C.G.S. §46b-120 as amended by section 82 of public act 09-7 of the September special session as it was amended by section 82 of public act 09-7 of the September special session and **make it a "delinquent" act for the infractions** of possession of less than one-half ounce of marijuana or possession or delivery of paraphernalia for same. This is a new exception to the general definitions of a delinquent and a delinquent act for 16 (and eventually 17) year olds, which do not include most violations and infractions. Most violations and infractions were left to be prosecuted in the adult criminal courts to preserve the fines for the general fund when Raise the Age went into effect in January 2010.

The Juvenile Court is not authorized to impose fines, except in the event of possession of alcohol by a minor under C.G.S. §30-89(b). The dispositions upon conviction authorized for these two new delinquent acts, are those currently set forth in C.G.S. §46b-140(b). Note that currently, under Practice Book Rule 27-4A, a delinquency complaint or referral involving the possession of any illegal drug is ineligible for non-judicial handling, regardless of amount possessed.

Section 11 is new legislation that requires participation in a drug education program at the defendant's expense if he/she has entered a plea of nolo contender or been found guilty after trial for possession of less than one-half ounce of marijuana pursuant to Section 1 of this act 3 times or more. It is not clear how this would work in juvenile court, since the offense is a delinquent act and not an infraction.

- **Public Act No. 11-73 An Act Regulating The Sale And Possession Of Synthetic Marijuana And Salvia Divinorum**

(Effective July 1, 2011)

Section 1 Regulations Regarding Synthetic Marijuana, Divinorum And Salvinorum

Section 1 of the act amends C.G.S. requires the commissioner of the Department of Consumer Protection (DCP) to adopt regulations designating salvia

divinorum and salvinorum A and the following five specified synthetic versions of marijuana as controlled substances and classifying each of these substances in the appropriate schedule:

- 1-pentyl-3-(1-naphthoyl) indole (JWH-018);
- 2. 1-butyl-3-(1-naphthoyl) indole (JWH-073);
- 3. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole (JWH-200);
- 4. 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497); and
- 5. 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47,497 C8 homologue);

- **Public Act No. 11-74 An Act Concerning Boating Under The Influence And Other Revisions To Environment Related Statutes**

(Effective July 1, 2011)

Section 1 Reckless Operation of a Vessel in the First Degree- Suspension of Boating Rights

Section 1 of the act amends C.G.S. 15-140l (*Reckless operation of a vessel in the first degree while under the influence of intoxicating liquor or drugs*.) by specifying that a conviction for first degree reckless boating under the influence will result, in the suspension of the person's safe boating certificate or certificate of personal watercraft operation (which are required for legal boating) or the person's right to operate a vessel that requires a safe boating certificate.

Section 2 Reckless Operation of a Vessel in the Second Degree- Suspension of Boating Rights

Section 2 of the act amends C.G.S. 15-140n (*Reckless operation of a vessel in the second degree while under the influence of intoxicating liquor or drugs*.) by specifying that a conviction for second degree reckless boating under the influence will result, in the suspension of the person's safe boating certificate or certificate of personal watercraft operation (which are required for legal boating) or the person's right to operate a vessel that requires a safe boating certificate.

Section 3 Standards For Suspending The Boating Or Watercraft Certificate In Administrative Hearing Before The Environmental Protection Commissioner

Section 3 of the act amends C.G.S. 15-140q(*Consent for chemical analysis. Suspension of safe boating certificate. Procedures. Hearing on suspension. Penalties for conviction*), which establishes standards the Environmental Protection Commissioner must follow when determining whether to suspend the safe boating certificate or a person who was operating a vessel that was involved in an accident who suffered or allegedly suffered physical injury in such accident and subsequently arrested for:

- boating under the influence or with an elevated blood alcohol content in the first degree (C.G.S. 15-133(d);
- reckless operation of a vessel in the first degree while under the influence (C.G.S. 15-140l);
- Reckless operation of a vessel in the second degree while under the influence (C.G.S. 15-140n), or
- manslaughter in the second degree with a vessel (*C.G.S. 15-132a)*, and

Under prior law in order to suspend the certificate the commissioner had to find after hearing that the blood sample of the operator was obtained in accordance with admissibility standards specified in C.G.S. 15-140r (b). These standards require that **t**he Commissioner of Public Safety to ascertain the reliability of each method and type of device offered for chemical testing and analysis of blood, of breath and of urine and certify those methods and types which the Commissioner of Public Safety finds suitable for use in testing and analysis of blood, breath and urine, respectively. The Commissioner of Public Safety, after consultation with the Commissioner of Public Health, must adopt regulations governing the conduct of chemical tests, the operation and use of chemical test devices and the training and certification of operators of such devices and the drawing or obtaining of blood, breath or urine samples as the Commissioner of Public Safety finds necessary to protect the health and safety of persons who submit to chemical tests and to insure reasonable accuracy in testing results.

This act eliminates this requirement for a finding in an administrative hearing and instead requires that the sample was obtained in accordance with conditions for admissibility as set forth in C.G.S. 15-140s, which refers to samples taken by a hospital (or pursuant to section 5 of this act as summarized below) at the accident scene or at the way to a hospital by medical personnel.

Section 4 - Minimum Time Between Blood Alcohol Tests Reduced

Section 4 amends C.G.S. 15-140r by reducing the minimum time between blood alcohol tests involving vessel operators and hunters. Current law specifies the standards that must be followed for a blood alcohol test results to be admissible in a criminal prosecution for:

- boating under the influence or with an elevated blood alcohol content in the first degree (C.G.S. 15-133(d);
- reckless operation of a vessel in the first degree while under the influence (C.G.S. 15-140l);
- Reckless operation of a vessel in the second degree while under the influence (C.G.S. 15-140n)
- manslaughter in the second degree with a vessel (*C.G.S. 15-132a)*, and
- and hunting under the influence (C.G.S. 53-206d).

One admissibility standard under prior law was that that an additional test had to have been performed at least 30 minutes after the first test was performed. Section 3 reduces the minimum required time between tests from 30 minutes to 10 minutes.

Section 4 Prosecutor Must State Reasons for Reducing, Entering a Nolle, or Dismissing a Charge

Section 4 also amends C.G.S. 15-140 by prohibiting a prosecutor from reducing, entering a nolle, or dismissing a criminal charge for the following offenses unless the prosecutor states in open court his or her reasons:

- manslaughter in the second degree with a vessel (*C.G.S. 15-132a)*,
- reckless operation of a vessel in the first degree while under the influence (C.G.S. 15-140l); and
- reckless operation of a vessel in the second degree while under the influence (C.G.S. 15-140n)

The law already requires this when the offense is boating under the influence or with elevated blood alcohol content in the first degree (C.G.S. 15-13(d)

Section 5 Test Results on Blood and Urine Samples

Section 5 amends C.G.S. 15-140s **(***Seizure and admissibility of chemical analysis of hospital blood sample of injured operator)* by expanding the circumstances under which blood test results are admissible for boating related offenses and by allowing the admissibility of urine blood alcohol content tests under certain circumstances.

By law, evidence respecting the amount of alcohol or drug in the blood of an operator of a vessel involved in an accident who has suffered or allegedly suffered physical injury in such accident, which evidence is derived from a chemical analysis of a blood sample taken from such person at a hospital after such accident, is competent evidence to establish probable cause for the arrest by warrant of such person for a violation for operating a vessel while under the influence or with an elevated blood alcohol content (C.G.S. 15-133), and is admissible and competent in any subsequent prosecution for such offense if certain standards are followed. One of those standards is that the blood sample was taken in the regular course of business of the hospital for diagnosing and treating such injury. **Section 5** expands the scope of this law by making blood alcohol test results on:

1. blood taken at the scene of the accident or while on route to the hospital evidence to establish probable cause for the arrest and admissible and competent in subsequent prosecution;
2. urine taken at the hospital or at the scene of the accident or while on route to the hospital evidence to establish probable cause to make the arrest and admissible and competent in a subsequent prosecution.

It also expands the application by also making apply to arrests and prosecutions for:

1. manslaughter in the second degree with a vessel (*C.G.S. 15-132a)*,
2. reckless operation of a vessel in the first degree while under the influence (C.G.S. 15-140l), and
3. reckless operation of a vessel in the second degree while under the influence (C.G.S. 15-140n).

- **Public Act No. 11-93** **An Act Concerning The Response Of School Districts And The Departments Of Education And Children And Families To Reports Of Child Abuse And Neglect And The Identification Of Foster Children In A School District**

This act gets tough on the schools in the wake of a report from the Office of the Child Advocate that schools were remiss in the reporting of the abuse and neglect of children, especially by their own employees. It requires better training and retraining of school employees who are mandated reporters. A model mandated reporting policy for use by the local and regional boards of education must be developed by DCF and the State Department of Education.

School employees suspected of abusing or neglecting any child, in or out of school, may be suspended and face termination and the revocation of their certification, authorization or permit to work at a school.

Both DCF and the school boards must notify one another of any investigations of abuse or neglect of a child by a school employee. There are amendments to the DCF and school confidentiality laws to permit more sharing of information on investigations, dismissals of employees and substantiation. Local or regional school boards must keep centralized records on employees who have abused or neglected a child, which are disclosable to the State Dept. of Education.

More generally, C.G.S. §17a-101a is amended to provide that any failure to report child abuse or neglect or delay in making a report by any mandated reporter must be investigated by DCF and a failure to report shall result in a prompt referral to the Chief State's Attorney.

Section 9 of the act amends C.G.S. §17a-101d and states that all mandated reports made under §17a-101, (not just those emanating from schools), must now include the reasons a person is suspected of neglect or abuse and any information concerning PRIOR cases in which such person has been suspected of neglect or abuse. (It doesn't say "substantiated," it says "suspected.")

Section 17 of the act amends C.G.S. §17a-101h and requires that any person reporting child abuse or neglect shall provide the investigator with all information in their possession except as expressly prohibited by state or federal law.

Section 21 of the act, C.G.S. §17a-16a is amended to require DCF, upon request, to provide a board of education with the name, date of birth and school of origin for any child in DCF custody who is placed in foster care and enrolls in a new school.

(Effective Upon Passage)

- **Public Act No. 11-105 An Act Concerning A Regional Structure For The Department Of Children And Families And Miscellaneous Changes**

This bill allows the DCF Commissioner to appoint up to two program directors and up to six regional directors in the unclassified service. It established a regional service delivery structure.

It also makes technical changes to the subsidized guardianship statute to conform state law to federal requirement for foster care programs and repeals reporting

requirement for the Kinship Navigator Program and an annual report on the status of children. It also repeals the CJTS Public Safety Committee and transfer is responsibility to review safety and security issues affected the host municipality (Middletown) to the existing CJTS Advisory Group.

- **Public Act No. 11-115 An Act Concerning Juvenile Reentry And Education**

Section 3 provides that the period of expulsion for any student who commits an expellable offense and is subsequently placed in a juvenile detention center, committed to the Connecticut Juvenile Training School, or any other residential placement for the expellable offense shall be concurrent with time spent in the detention center, the CJTS or residential placement. The intent of this bill was to prevent the schools from waiting until after the child serves time in detention or residential placement and then finally expelling him or her, just as they're ready to return to regular school.

Public Act No. 11-134 AN ACT ESTABLISHING A PROCEDURE FOR RELIEF FROM CERTAIN FEDERAL FIREARMS PROHIBITIONS

(Effective July 1, 2011)

Section 1(a) Petition To The Probate Court For Relief From Federal Firearms Disability

Section 1 (a) authorizes anyone having a federal firearms disability (under 18 USC 922(d)(4) and 18 USC 922(g)(4)), because of a Connecticut adjudication or commitment , to petition the probate court for the district in which such person resides for relief from the federal firearms disability that resulted from the adjudication or commitment.

Federal law prohibits various categories of people from transporting, selling, receiving, possessing, or shipping firearms. These include anyone who has been "adjudicated as a mental defective" or "committed to a mental institution" (18 USC §§ 922(d)(4) & 922(g)(4)).

Under federal regulations, "adjudicated as a mental defective" means a determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetence, condition, or disease (1) is a danger to himself or herself or others or (2) lacks the mental capacity to contract or manage his or her own affairs. The term includes a finding of incompetence to stand trial or not guilty by reason of insanity or lack of mental responsibility. "Committed to a mental institution" means a formal commitment by a

court, board, commission, or other lawful authority. It includes involuntary commitments for mental health issues or other reasons, such as drug use. It does not include people admitted voluntarily or for observation (27 CFR § 478. 11).

Section 1(b) Required Information In Support Of The Petition

Section 1(b) requires the petitioner to submit to the probate court, information in support of the petition, including, but not limited to:

1. Certified copies of medical records detailing the petitioner's psychiatric history where applicable, including records pertaining to the specific adjudication or commitment that is the subject of the petition;
2. Certified copies of medical records from all of the petitioner's current treatment providers, if the petitioner is receiving treatment;
3. A certified copy of all criminal history information maintained on file by the State Police Bureau of Identification and the Federal Bureau of Investigation pertaining to the petitioner or a copy of the response from the bureaus indicating that there is no criminal history information on file;
4. Evidence of the petitioner's reputation, which may include notarized letters of reference from current and past employers, family members or personal friends, affidavits from the petitioner, or other character evidence; and
5. Any further information or documents the court requests, which must certified copies of original documents.

Section 1(c) Copies Of Petition And Supporting Documents To The Commissioner Of Public Safety

Section 1(c) of the act requires the petitioner to deliver a copy of the petition and all supporting documents to be delivered to the Commissioner of Public Safety and to certify to the probate court that such delivery has been made.

Section 1(d) Release Of Relevant Records

Section 1(d) of the act requires the petitioner to provide for the release of all of the petitioner's records that may relate to the petition, including, but not limited to, *1) health, (2) mental health, (3) military, (4) immigration, (5) juvenile court, (6)civil court and (7)criminal records. The releases must be on forms the Probate Court Administrator prescribes. The releases must authorize the Public Safety Commissioner to obtain any of these records for use at the probate court hearing or in any appeal from the probate court decision.

Section 1(e) Deadlines For Providing Required Information

Section 1(e) of the act requires the petitioner to make sure that all required information accompanies the petition when he or she submits the petition to the court. Unless specifically requested by the court, information the petitioner provides after the court receives the petition may not be considered. The court must receive information it specifically requests within 15 days after its request in order for the court to consider the information. The court may allow more than 15 days for good cause shown. Failure to provide the requested information within such time period may result in a denial of the petition.

Section 1(f) Public Hearing Notice

Section 1(f) requires the probate court to set a date, time and place for a hearing when it receives a petition. It also requires the court to give notice of such hearing to (

1. the petitioner,
2. the Commissioner of Public Safety,
3. the court that rendered the adjudication or commitment,
4. the conservator appointed for the petitioner, if any, and
5. any other person the court determines to have an interest in the matter.

Section 1(g) Hearing Recordings, Transcripts, And Transcript Costs

Section 1(g) requires the court to record all hearing testimony. The recording must be transcribed only if there is an appeal from the probate court decision. A copy of such transcript must be furnished without charge to any appellant whom the probate court finds is unable to pay for such copy. The cost of such transcript must be paid from funds appropriated to the Judicial Department.

Section 1(h) Burden Of Proof And Right Of Interested Parties To Present Evidence

Section 1(h) requires the petitioner to establish by clear and convincing evidence that:

1. the petitioner is not likely to act in a manner that is dangerous to public safety, and
2. granting relief from the federal firearms disability is not contrary to the public interest.

The bill allows the Public Safety Commissioner and any other person determined by the court to have an interest in the petition to present any and all relevant information at the probate court hearing and in any appeal to the Superior Court.

Section 1(i) Information The Court Must Consider

Section 1(i) requires the court to consider the following information when determining whether to grant the petition:

1. The circumstances regarding the firearms disability imposed by 18 USC 922(d)(4) and 18 USC 922(g)(4);
2. The petitioner's record, which must at least include the petitioner's mental health records and criminal history records, if any;
3. The petitioner's reputation, which the petitioner must demonstrate through character witness statements, testimony. or other character evidence; and
4. Any other relevant information provided by the petitioner, the Public Safety Commissioner, or any other person determined by the court to have an interest in the matter.

Section 1(j) Court Must Grant Petition If It Makes Certain Findings

Section 1(j) requires the court to grant the petition if it finds by clear and convincing evidence that:

1. The petitioner will not be likely to act in a manner dangerous to public safety, and
2. Granting the relief will not be contrary to the public interest.

The act requires the court to include in its decision the specific findings of fact on which it based its decision.

Section 1(k) Appeal Of The Probate Court Decision

Section 1(k) authorizes the petitioner or the Public Safety Commissioner to appeal the final decision of the probate court to the Superior Court. The act requires that the Superior Court review of the probate court decision be de novo.

Section 1(l) Stay Of Probate Court Decision

Section 1(l) requires that enforcement of any decision of the probate court granting relief pursuant to the petition shall be stayed until the appeal period has expired or, if an appeal is taken, until the final decision of the court. If the court grants

the relief and no appeal is taken or an appeal is taken and the decision is upheld, the court granting relief must notify the Public Safety Commissioner of that decision.

Section 1(m) Public Safety Commissioner Duty To Comply With Court Decision

Section 1(m) requires the Public Safety Commissioner, as soon as practicable after receiving notice of the decision granting the petition, to:

1. coordinate the removal or cancellation of the record in the National Instant Criminal Background Check System (NICS), and
2. notify the Attorney General of the United States that the basis of the record no longer applies.

Section 1(n) Probate Court Proceedings Must Be Closed To The Public

Section 1(n) requires that all probate court proceedings regarding the petition be closed to the public and all records of the proceedings be confidential and not subject to disclosure except to the petitioner or his or her counsel and the Commissioner of Public Safety, unless the probate court, after notice to the parties and a hearing, determines that such records should be disclosed for good cause shown.

- **Public Act No. 11-154 An Act Concerning Detention of Children and Disproportionate Minority Contact In The Juvenile Justice System**

Section 2 – Disproportionate Minority Contact Reports

(Effective Upon Passage)

Beginning September 30, 2011, this section requires that biennially, certain state agency heads are required to report to the Office of Policy and Management (OPM) on the plans developed and steps taken during the previous two fiscal years to address Disproportionate Minority Contact in the juvenile justice system. Those agency heads are:

1. Commission of the Department of Children and Families;
2. Commissioner of Public Safety;
3. Chief State's Attorney;
4. Chief Public Defender;
5. Chief Court Administrator; and,
6. Police Officer Training Council.

The act defines "disproportionate minority contact" as the disproportionate number of juvenile members of minority groups which come into contact with the juvenile justice system.

In addition, the public act requires the Commissioner of Children and Families and the Chief Court Administrator, and others responsible for providing child welfare services, including services provided in abuse and neglect cases, to report as to efforts undertaken to address disproportionate minority contact in the child welfare system and evaluate the relationship between the two systems as it relates to disproportionate Minority Contact.

The reports will be compiled by the Office of Policy and Management and submitted to the Governor and the General Assembly by December 31st of each odd numbered year.

- **Public Act No. 11-166 An Act Concerning Placement Of Children With Special Study Foster Parents**

This bill eliminates the minimum age requirement with which DCF must comply to temporarily place a child with a special study foster parent. Under the prior law, only children 10 years old or older could be considered for placement in special study foster homes.

(Effective July 1, 2011)

- **Public Act No. 11-174 An Act Concerning The Electronic Recording Of Custodial Interrogations**

Section 2 Establishment Of Standards For Electronic Recording Of Interrogations

(Effective Upon Passage)

Section 2 requires the Chief State's Attorney, with the Police Officers Standards and Training Council and a representative of the Connecticut Police Chiefs Association to set standards for the (1) recording equipment used in connection with such statements, including transcriptions, and (2) training law enforcement personnel in using the equipment, by January 1, 2012.

Public Act No. 11-240 **An Act Concerning The Department Of Children And Families' Differential Response And Poverty Exemption and a Report on Episodes of Unauthorized Absences of Children and Youth in the Department's Care**

(Effective July 1, 2011)

Section 2 eliminates the definition of a "dependent child" in C.G.S. §46b-120(6) and consequently, a court's ability to adjudicate a child as "dependent" in any petition brought pursuant to §46b-121.

This section also amends the definition of a "neglected child" in General Statutes §46b-129(8), by adding additional language that no child can be adjudicated neglected solely on the basis of being impoverished. "Impoverished" is not defined anywhere.

The Legislature created a new category for adjudication: "abused" in C.G.S. §46b-121. The legislature did not change the definition of an "abused" child in Section 46b-120(3). Thus, a child can be adjudicated as "neglected" or "abused" or both. Most physical abuse still would permit an additional finding of neglect, so this is more of a technical change than a substantive one.

(b) Subsections 1(a) and (1) (g) in this bill allow DCF to establish a "differential response system," a more benign approach to some troubled families. It essentially allows DCF to provide family assessment and community services to parents in "low risk" cases in lieu of launching full scale investigations or seeking court involvement. Before making the referral, DCF must conduct an initial safety assessment of the circumstances of a family and child and criminal background checks on all adults involved in the report of child abuse or neglect. DCF is also permitted to disclose information to each DRS service provider, including prior child protection activity, and each provider must disclose to DCF all relevant information gathered during assessment, diagnosis and treatment of the child and family consistent with the provisions of section 17a-28.

If a family referred for DRS creates greater safety concerns for the child, it can then be handled as a standard child protection case. If a report referred for standard child protective services appears to pose a lower risk at a later time, it can be referred to DRS.

- **Public Act No. 252** **An Act Concerning Eyewitness Identification**

(Effective Upon Passage)

Section 2 Task Force

This section creates the Eyewitness Identification Task Force to study eyewitness identification procedures and sequential live and photo lineups. The task force is charged with reviewing:

> "(1) The science of sequential methods of conducting a live lineup and a photo lineup,
>
> (2) the use of sequential lineups in other states,
>
> (3) the practical implications of a state law mandating sequential lineups, and
>
> (4) such other topics as the task force deems appropriate relating to eyewitness identification and the provision of sequential lineups. "

Lastly the Task Force must submit a report containing its finding and any recommendations to the General Assembly by April 1, 2012.